

## **Renewable Energy Question #29: How has MI or other jurisdictions proposed addressing possible impacts from the adoption of a federal RPS?**

States have long been leaders when it comes to advancing the development of renewable energy using the renewable electricity standard (RES) as a policy tool. However, the RES has also been considered at the national level, with proposals passing the Senate three times from 2002 to 2005, and in the House in 2007 and 2009. Though passage of a federal RES in the current Congress seems unlikely, RES legislation remains under consideration, and President Obama has publically supported a national clean energy standard. While no federal RES law currently exists, the question of how a federal RES would interact with the existing RES policies in 29 states and the District of Columbia is important to consider. If designed well, a federal RES can work effectively together with state-level standards, leading to increased renewable energy deployment and economic and environmental benefits for the entire nation.

While it is no guarantee of how a possible future federal RES would be designed, examining past legislative proposals can provide some insight into how a national standard may be designed to interact with state standards, and likewise how a state may address possible impacts from that standard. Historically, it has been clear that Congress does not seek to undermine the ability of states to establish their own RE policies, and rather has sought to develop a federal program that sets a national floor for renewable energy use on which states can expand. For example, previous federal RES bills have explicitly prevented any preemption or diminishing of existing or new state-level RES or other renewable energy policies, and allowed for states to administer different RES policies, including higher targets and alternative eligibility criteria in order to achieve state and local goals. In addition, states have been given expressed authority to administer their own RES policies, regulate the acquisition and disposition of national renewable energy credits (RECs), and decide on how to treat additional renewable energy generation (above the national targets) that results from their own state standards. Furthermore, the U.S. Department of Energy (DOE), which has typically been authorized to administer the federal RES program under earlier proposals, was instructed to facilitate the coordination between state and federal programs. And though some federal RES proposals have differed in the specifics, many bills have allowed for the states to administer the disposition of funds collected by the DOE in the form of alternative compliance payments.

Michigan is one of just a few states that have proactively included a provision in its RES legislation that addresses possible interactions with a future federal RES. Michigan's law states: "The same renewable energy credit may be used by an electric provider to comply with both a federal standard for renewable energy and the renewable energy standard under this subpart."<sup>1</sup> While this provision addresses one aspect of potential state-federal RES interaction (the counting of state compliance toward federal obligations), other important issues may emerge, including, but not limited to REC ownership, REC tradability, treatment of federal RECs in excess of the national requirement, and the treatment of state or federal alternative compliance payments. As a result, further state legislative discussions and

---

<sup>1</sup><http://www.legislature.mi.gov/%28S%28laudxj45k0c02r55zyuuch45%29%29/mileg.aspx?page=getobject&objectname=mcl-460-1041&query=on&highlight=federal>

clarifying legislation may be required to address the possible impacts of a federal RES, should Congress move forward with one in the future.